



Yana Garcia
Secretary for
Environmental Protection

Department of Toxic Substances Control

Meredith Williams, Ph.D.
Director
5796 Corporate Avenue
Cypress, California 90630



Gavin Newsom
Governor

March 18, 2024

Georgianne White
2600 Fresno Street
Fresno, California 93721
georgianne.white@fresno.gov

ECRG-2023-01594 AWARD LETTER: CITY OF FRESNO – 1457 H STREET – 1457 H STREET, FRESNO, FRESNO COUNTY, CALIFORNIA – CES 4.0 SCORE 99

Dear Georgianne White:

On behalf of the Department of Toxic Substance Control's (DTSC)'s Office of Brownfields, we are pleased to inform you that the City of Fresno's 1457 H Street Equitable Community Revitalization Grant (ECRG) Application has been approved. Congratulations!

This grant award is for up to \$3,122,648¹ to reimburse eligible environmental activities and other eligible costs according to the requirements of the ECRG Round 2 Guidelines. This award applies only to eligible activities associated with the Site-specific Cleanup grant type and is not an approval of the budget in the ECRG Application. Upon execution of the ECRG Agreement (Agreement), each reimbursement request will require approval prior to reimbursement by the assigned DTSC Portfolio Manager. **DTSC will only reimburse eligible grant costs incurred after DTSC executes the Agreement.**

Agreement Signature

You will receive an email from DocuSign to sign the Agreement, which must be signed within 1 week of receipt. Applications will be considered withdrawn if the Agreement is not signed by the required date.

¹ The total ultimate grant amount may be less than requested depending on eligibility of each reimbursement request, see ECRG Round 2 Guidelines Spending Categories and Eligible Tasks for Various Grant Types Appendix G, page 83 for the specific grant type awarded. Specific questions regarding allowable ECRG Tasks can be discussed during the kickoff meeting.

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Agreement Revisions

Note that the following changes has been made to the Agreement that was posted on the ECRG website (see *green italicized* text):

1.7 GRANTEE'S ECRG Application and the Regulatory Oversight Agreement are incorporated by reference as if fully set forth herein. GRANTEE agrees to conduct all work funded by the ECRG in accordance with these documents, including any future modifications, amendments, or addenda subsequently approved by DTSC or the Regulatory Oversight Agency.

1.8 In the event that information in the ECRG Application conflicts with the Round 2 ECRG Guidelines or the AGREEMENT, the Round 2 ECRG Guidelines and/or AGREEMENT will control.

6.9 If the reimbursement request does not meet the specifications of Round 2 ECRG Guidelines, the reimbursement request will not be approved *for reimbursement*.

6.10 DTSC retains all rights to determine whether any reimbursement request will be approved for reimbursement, including, but not limited to, whether reimbursement requests meet the requirements of the Round 2 ECRG Guidelines sections 2.7, 2.8, and Appendix G.

16.2 No failure to exercise any power or right provided hereunder, or to insist on strict compliance with its obligations hereunder, shall constitute a waiver of right to DTSC's demand at any time exact compliance with the terms hereof.

Application Updates

Changes to Agreement or Application: ECRG Guidelines Round 2, Sections 3.4.2 and 3.4.3. If there are any corrections needed on Site(s) or grantee information, please contact ECRG@dtsc.ca.gov immediately in order for funding to be finalized.

Changes to Site Ownership: ECRG Guidelines Round 2, Section 3.4.2. If there are changes in ownership, please follow the instructions in the ECRG Round 2 Guidelines prior to ownership change, otherwise the Agreement may be terminated.

ECRG Kickoff Meeting

An ECRG kickoff meeting will be scheduled once the City of Fresno and the Office of Brownfields execute the Agreement. An ECRG kickoff meeting is required to discuss details on the ECRG project management team, eligible costs, any budget/scope amendments, and other ECRG implementation information. Please discuss any specific expenditure and budget concerns with DTSC during the kickoff meeting.

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Congratulations again on the approval of your application. ECRG is an unprecedented opportunity to address the historically disproportionate impacts to communities and to revitalize land for public benefit. Thank you for your interest in creating healthier spaces and working to advance environmental and social justice in your community. We are looking forward to working with you.

If you have any questions or concerns, please contact ECRG@dtsc.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Maryam Tasnif-Abbasi', written in a cursive style.

Maryam Tasnif-Abbasi
Brownfield Development Manager
Office of Brownfields
Site Mitigation and Restoration Program

Enclosure (1) - Equitable Community Revitalization Grant Agreement



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Site Name	Site Address
1457 H Street	1457 H Street, Fresno, California 93721

Grant No. ECRG-2023-01594

The Equitable Community Revitalization
Grant Agreement

Grantee/Applicant: City of Fresno

Name: Georgeanne White

Organization: City of Fresno

Address: 2600 Fresno Street, Fresno,
California 93721

This Equitable Community Revitalization Grant (ECRG) Agreement (AGREEMENT) is entered into by and between City of Fresno (GRANTEE) and the Department of Toxic Substances Control (DTSC) (together the PARTIES).

RECITALS

WHEREAS,

- A. Senate Bill 158 (2021) authorizes DTSC to implement a new grant program to investigate and clean up contaminated properties in communities overburdened by pollution.

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- B. Pursuant to Senate Bill 158, DTSC established the ECRG, which provides financial assistance to communities via reimbursable grants to investigate and clean up brownfields through a competitive process.
- C. GRANTEE has submitted the ECRG Application to DTSC for an ECRG in connection with certain property, or group of properties, commonly known as 1457 H Street, in Fresno, California (Site). The Site is depicted in the Site Map in the ECRG Application.
- D. The entirety of the completed and signed ECRG Application is incorporated by reference as if fully set forth herein.
- E. GRANTEE has provided documentation indicating that GRANTEE is the Owner of the Site(s).
- F. GRANTEE is a local governmental agency, tribe, or 501(c)(3) non-profit organization under the rules of the U.S. Internal Revenue Service.
- G. The CalEnviroScreen (CES) 4.0 Score for the Site is 99. GRANTEE proposes 100% affordable housing (80% AMI or below) as the primary Proposed Reuse.
- H. GRANTEE is willing to undertake the Proposed Reuse and requests DTSC provide ECRG funding for: Site-specific Cleanup activities up to \$3,122,648.
- I. GRANTEE has provided ECRG Tasks and Budget in the ECRG Application outlining the activities to be completed within two (2) years from execution date of this AGREEMENT.
- J. GRANTEE provided a link to the DTSC voluntary agreement or an "ECRG Project Suitability Letter."
- K. DTSC determined that the ECRG Application is complete and that GRANTEE and the Site(s) meet the eligibility requirements to receive ECRG funding.

NOW, THEREFORE, in consideration of the terms, conditions, recitals, and covenants contained herein, the PARTIES agree as follows:

- I. The funding period of ECRG shall be twenty-four months (24) months from AGREEMENT execution date, unless DTSC extends this AGREEMENT in writing.
- II. DTSC will allocate up to \$3,122,648.00 to GRANTEE to complete the ECRG Tasks within the specified two-year funding period that begins from the execution date of this AGREEMENT.

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- III. GRANTEE will carry out the ECRG Tasks in accordance with all applicable State and local laws.

1. FUND CONDITIONS

- 1.1 GRANTEE understands and agrees that all ECRG funds DTSC provides via the reimbursement process, shall be used solely for the ECRG Tasks.
- 1.2 GRANTEE further understands and agrees that the receipt of any ECRG funds and all work performed on the Site(s) using ECRG funds are conditioned upon GRANTEE's full compliance with this AGREEMENT and Regulatory Oversight Agency requirements, if applicable.
- 1.3 GRANTEE agrees to document all expenditures of ECRG funds for the completion of approved ECRG Tasks as directed by DTSC. Any unused portions of the ECRG funds shall be promptly returned to DTSC.
- 1.4 GRANTEE is responsible for any cost of ECRG Tasks that exceeds the ECRG funding allocation.
- 1.5 DTSC will disburse the approved amount to GRANTEE, subject to the availability of funds through normal DTSC reimbursement processes. Notwithstanding any other provision of this AGREEMENT, no disbursement shall be required at any time or in any manner which is or likely to be in violation of, or in conflict with, federal or State laws, rules, or regulations.
- 1.6 In case of fraud, false or misleading statements in connection with the ECRG funding, DTSC's obligation to provide funding shall promptly cease and GRANTEE must repay all disbursed ECRG funding, in addition to any other remedies available to DTSC.
- 1.7 GRANTEE'S ECRG Application and the Regulatory Oversight Agreement are incorporated by reference as if fully set forth herein. GRANTEE agrees to conduct all work funded by the ECRG in accordance with these documents, including any future modifications, amendments, or addenda subsequently approved by DTSC or the Regulatory Oversight Agency.
- 1.8 In the event that information in the ECRG Application conflicts with the Round 2 ECRG Guidelines or the AGREEMENT, the Round 2 ECRG Guidelines and/or AGREEMENT will control.

2. CONTRACTING

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- 2.1 If GRANTEE contracts for services to be reimbursed by ECRG, those contracts shall generally be procured through a competitive process. GRANTEE shall make available to DTSC, upon request, records of procurement to demonstrate that contract pricing represents reasonable market rates.
- 2.2 GRANTEE will undertake good faith efforts to contract for services and supplies with qualified Small Business Enterprises (SBEs), Disabled Veteran Enterprises (DVEs), and other disadvantaged and underrepresented group owned business enterprises.

3. COMMUNITY BENEFIT COMMITMENTS

- 3.1 GRANTEE agrees to promote equitable development through community benefit commitments.
- 3.2 GRANTEE shall implement, track, and report on the status of the community benefit commitments included in the ECRG Application.

4. SITE ACCESS

- 4.1 GRANTEE shall ensure DTSC's employees, contractors, and consultants have access to the Site(s) at all reasonable times for the duration of AGREEMENT.
- 4.2 Nothing in this AGREEMENT is intended or shall be construed to limit in any way the right of entry or inspection that DTSC or any other agency may otherwise have by operation of law.
- 4.3 GRANTEE shall allow DTSC to take photographs of the Site(s), including activities at the Site(s), whenever DTSC accesses the Site(s) pursuant to this AGREEMENT.
- 4.4 GRANTEE gives permission to DTSC to use the photos in DTSC's possession for outreach purposes.
- 4.5 If the Site(s) is not owned by the GRANTEE, GRANTEE agrees to provide regular updates to the Site Owner(s) about the activities occurring on the Site(s) and any potential changes to the Proposed Reuse of the Site(s) when the changes become known to GRANTEE as necessary for the Site(s).
 - a. GRANTEE confirms and certifies that GRANTEE has full legal rights from the Site Owner(s) and other relevant parties to pursue the activities occurring on the Site.

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- b. GRANTEE shall hold harmless and indemnify the State and DTSC from any claims and demands arising therefrom pursuant to Section 20 (Indemnification).
- c. GRANTEE certifies that GRANTEE provided the Site Owner(s) with environmental oversight information and the Proposed Reuse information prior to ECRG Application submittal and that all information provided to the Site Owner(s) was accurate, not misleading, and consistent with the information provided to DTSC.
- d. GRANTEE certifies that the Site Owner(s) signed the access agreement voluntarily after receiving all necessary and relevant information regarding the activities to be performed pursuant to this AGREEMENT.

5. COMMUNITY ENGAGEMENT

- 5.1 GRANTEE will implement community engagement in a timely manner.
- 5.2 GRANTEE shall provide regular reporting updates on community engagement in the ECRG Quarterly Reports.
- 5.3 Upon request by DTSC, GRANTEE shall provide DTSC with copies of all community engagement activity related documents.

6. INVOICES

- 6.1 GRANTEE shall submit invoices (for completed eligible and approved ECRG Tasks) for reimbursement in batches through the DTSC's Application/Grant Portal (Fluxx).
- 6.2 GRANTEE may only submit invoices for ECRG Tasks that have been completed.
- 6.3 DTSC does not require that the GRANTEE pay the invoices in order to submit to DTSC for reimbursement.
- 6.4 Packages shall be submitted immediately whereupon the total \$15,000 minimum per package/batch is reached (unless otherwise directed by DTSC), with the exception of the Final Invoice.
- 6.5 The Final Invoice may be submitted upon completion of ECRG Tasks, when no more costs will be incurred, but no later than thirty (30) months from the date of the AGREEMENT, or as otherwise directed by DTSC.

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- 6.6 GRANTEE will follow the ECRG Reimbursement Request Checklist available on Fluxx.
- 6.7 GRANTEE's reimbursement requests for ECRG project management costs, if approved, should also be presented to DTSC as an invoice.
- 6.8 Reimbursement requests shall include invoices supporting ECRG Tasks specified in the ECRG Scope, Schedule, and Budget Table.
- 6.9 If the reimbursement request does not meet the specifications of the Round 2 ECRG Guidelines, the reimbursement request will not be approved for reimbursement.
- 6.10 DTSC retains all rights to determine whether any reimbursement request will be approved for reimbursement, including, but not limited to, whether reimbursement requests meet the requirements of the Round 2 ECRG Guidelines sections 2.7, 2.8, and Appendix G.
- 6.11 If GRANTEE does not request reimbursement within the initial six (6) months of the AGREEMENT, the AGREEMENT may be subject to termination following the noncompliance requirements of this AGREEMENT.
- 6.12 GRANTEE must ensure that the costs DTSC reimburses through ECRG are not reimbursed by another source of public funding (e.g., DTSC's Revolving Loan Fund Program, Site Cleanup Subaccount Program, USEPA Brownfield Grants, etc.).

7. REPORTING

- 7.1 GRANTEE must submit ECRG Quarterly Reports on or before January 31, April 30, July 31, and October 30 within the two-year funding period of the AGREEMENT, unless otherwise directed by DTSC.
- 7.2 ECRG Quarterly Reports must follow the format DTSC provides, which may generally include ECRG Task status and progress toward the Proposed Reuse, any hurdles that may affect the ECRG Tasks or the Proposed Reuse, expended ECRG funds for the quarter, and amount of ECRG funds that are anticipated to be requested for reimbursement in the next quarter.
- 7.3 All ECRG Tasks performed pursuant to this AGREEMENT and with ECRG funds shall be performed in a manner that meets or exceeds industry standards.

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7.4 GRANTEE shall provide regular reporting updates on community engagement in the ECRG Quarterly Reports.

7.5 GRANTEE shall provide regular reporting updates on community benefit commitments in the ECRG Quarterly Reports until the community benefit commitments are considered complete.

8. PERMITS AND LICENSES

8.1 GRANTEE, at its sole cost and expense, and from sources other than the ECRG funds, shall be responsible for obtaining all professional, and equipment qualifications necessary to be qualified to perform this work under federal, State, and local law, including permits, licenses, approvals, certifications, and inspections.

8.2 GRANTEE shall ensure that all such qualifications are maintained in good standing during the two-year funding period of this AGREEMENT.

8.3 GRANTEE represents that none of the contractors or subcontractors undertaking the ECRG Tasks is currently suspended, debarred, or otherwise declared ineligible to receive proceeds of ECRG funds.

9. PREVAILING WAGES

9.1 GRANTEE must carry out ECRG Tasks in accordance with State public work project requirements, including prevailing wages, for all applicable contracts and subcontracts and costs pursuant to California Labor Code Section 1720 et seq.

10. EQUAL EMPLOYMENT

10.1 GRANTEE shall comply with all State and Federal Equal Employment Opportunity laws.

11. ADA COMPLIANCE

11.1 GRANTEE will assure the State that it complies with the American with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. § 12101 et seq.).

12. GRANT CLOSEOUT

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- 12.1 GRANTEE shall provide DTSC with a Grant Closeout Notice to notify DTSC when the ECRG Tasks have been completed, and no later than the last day of the two-year funding period covered under this AGREEMENT.
- 12.2 Within 90 days of submitting the Grant Closeout Notice, GRANTEE shall submit a closeout report, in the format DTSC provides, to summarize all actions taken, the resources committed, and any significant problems completing the ECRG Tasks.
 - a. The closeout report shall document that the ECRG Tasks were performed in accordance with this AGREEMENT and the Regulatory Oversight Agreement, if applicable.
 - b. Closeout report shall include "before" and "after" photos of the Site(s).
 - c. GRANTEE gives permission to DTSC to use the photos in DTSC's possession for outreach purposes.
- 12.3 GRANTEE shall submit a Reuse and Grant Commitments letter report within 60 days following the completion of the Proposed Reuse. The report shall describe the Site(s)'s new use, document performance of the community benefit commitments and include "before" and "after" photos of the Site(s).

13. CHANGE IN SITES

- 13.1 Site change requests are not allowable for Site-Specific Investigation or Site-Specific Cleanup Grants.
- 13.2 GRANTEE may request site change or site addition for Community-Wide Assessment Grants, subject to DTSC approval. Site change requests will only be considered for ECRG-eligible sites located in an area with similar or higher CES 4.0 scores.

14. CHANGE IN OWNERSHIP

- 14.1 Any change in ownership of the Site for Site-specific Investigation or Site-specific Cleanup Grants will result in termination of the ECRG unless all of the following requirements are met:
 - a. ECRG Tasks and commitments are substantively unchanged and GRANTEE obtains DTSC's prior written approval of any non-substantive changes.

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- b. GRANTEE notifies DTSC sixty (60) days prior to change in ownership and provides to DTSC all information regarding the potential new owner required in the Round 2 ECRG Guidelines and Application, including an updated Owner Attestation Form.
- c. DTSC issues a conditional determination that the new owner (which may be the GRANTEE) meets all ECRG eligibility criteria and requirements per the Round 2 ECRG Guidelines.
- d. GRANTEE provides a change in ownership notification to DTSC within ten (10) days of new owner taking title along with:
 - i. A copy of the new Site Owner's Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) defense documentation.
 - ii. A signed access agreement between GRANTEE and new Site Owner (if GRANTEE is not the new owner), as required by the Round 2 ECRG Guidelines.
- e. DTSC issues a final written determination of continued eligibility and compliance to the GRANTEE verifying eligibility and ECRG continuance.

15. NOTIFICATIONS

- 15.1 All notices, requests, instructions, or other documents to be provided hereunder to either party by the other shall be in writing and addressed to the following contacts.

To DTSC:

DTSC ECRG Grant Contact

Title: Brownfield Development Data Analyst

Address: 5796 Corporate Avenue, Cypress, California, 90630

Email: ecrg@dtsc.ca.gov

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To GRANTEE:

GRANTEE ECRG Project Manager

Name: Danny Tohme

Organization: City of Fresno

Email: danny.tohme@fresno.gov

15.2 If GRANTEE changes their ECRG Project Manager or Signatory identified in the ECRG Application, it shall notify DTSC five (5) days prior to the change.

16. WAIVER

16.1 Any forbearance DTSC issues with respect to any provision in this AGREEMENT shall in no way constitute DTSC's waiver of any rights or privileges granted hereunder.

16.2 No failure to exercise any power or right provided hereunder, or to insist on strict compliance with its obligations hereunder, shall constitute a waiver of right to DTSC's demand, at any time, of exact compliance with the terms hereof.

17. NONCOMPLIANCE AND TERMINATION

17.1 In the event GRANTEE fails to comply with any term, condition, or obligation of this AGREEMENT, GRANTEE shall be deemed in noncompliance of this AGREEMENT. Events by which GRANTEE shall be deemed to be in noncompliance include, but are not limited to, the following:

- a. GRANTEE fails to timely respond, no later than sixty (60) days, to DTSC requests made in connection with this AGREEMENT or ECRG funding.
- b. GRANTEE fails to timely respond, no later than sixty (60) days, to the Regulatory Oversight Agency for the Site(s), if applicable.
- c. GRANTEE makes or submits any fraudulent, false or misleading warranty, representation, statement or material in, or in connection with, this AGREEMENT or the ECRG Application.

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- d. GRANTEE fails to provide complete or timely ECRG Quarterly Reports or related documentation.
- e. GRANTEE makes changes to the Proposed Reuse without prior review and written approval by DTSC or that cause the Site(s) to no longer meet eligibility criteria for ECRG funding.
- f. GRANTEE fails to complete the ECRG Tasks within the two-year funding period required by this AGREEMENT.
- g. GRANTEE fails to provide notification of change in Site ownership without the required notification in Section 14, and fails to obtain advance written DTSC approval for continued ECRG eligibility.
- h. GRANTEE fails to inform DTSC of any current conflicts of interest or fails to inform DTSC that a conflict of interest has arisen within seven (7) calendar days of GRANTEE learning of the conflict of interest.
- i. GRANTEE fails to submit the first reimbursement request within one hundred and eighty (180) days of the date of this AGREEMENT.
- j. GRANTEE is unable to meet and fully comply with the terms of this AGREEMENT and the ECRG Application.
- k. GRANTEE fails to cooperate with DTSC requests in connection with ECRG funding.

17.2 In the event that GRANTEE fails to comply with the terms of this AGREEMENT or the ECRG Application, DTSC shall provide written Notice of Noncompliance to GRANTEE.

- a. The Notice of Noncompliance shall provide a reasonable time for GRANTEE to respond, not less than ten (10) calendar days from the date of the notice. GRANTEE will cure or request an extension not less than sixty (60) days from Notice of Noncompliance.
- b. If GRANTEE fails to cure the noncompliance to the satisfaction of DTSC within the time period prescribed in the Notice of Noncompliance, DTSC may terminate the AGREEMENT and pursue any remedies available at law or in equity, including reimbursement of the funds DTSC has provided GRANTEE.

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- 17.3 If GRANTEE is in noncompliance, DTSC may immediately withhold from GRANTEE all or any portion of ECRG funding until such time the noncompliance is cured pursuant to this AGREEMENT.

18. RECORD RETENTION, INSPECTION, AND DISCLOSURE

- 18.1 Within ten (10) days of request by DTSC, GRANTEE shall provide DTSC with copies of Proposed Reuse plans to DTSC's ECRG Grant Contact.
- 18.2 Within ten (10) days of request by DTSC, GRANTEE shall provide DTSC with any documents or correspondence provided to the Regulatory Oversight Agency, if applicable.
- 18.3 GRANTEE shall ensure Regulatory Oversight Agency has the necessary documents to keep any applicable electronic data management system (e.g., EnviroStor or GeoTracker) up to date and in compliance with all electronic reporting requirements, if applicable.
- 18.4 GRANTEE agrees to maintain financial and programmatic records pertaining to all matters relative to this AGREEMENT and in accordance with generally accepted accounting principles and procedures. All such records and supporting documents shall be made available, upon request, for inspection or audit by DTSC or its representatives.
- 18.5 GRANTEE shall retain all its records and supporting documentation applicable to this AGREEMENT for a period of five (5) years, after completion of ECRG Tasks, except records that are subject to audit findings, which shall be retained an additional three (3) years after such findings have been resolved, if three (3) years would extend retention past the initial five-year period.
- 18.6 GRANTEE agrees to permit DTSC or its designated representative to inspect and/or audit its records and books relative to this ECRG at any time during normal business hours and under reasonable circumstances and to copy therefrom any information that DTSC deems relevant to this AGREEMENT. DTSC shall provide written notice to GRANTEE prior to implementing this provision (unless criminal activities are suspected). GRANTEE agrees to deliver the records or have the records delivered to DTSC or its designated representative at an address designated by such party.
- 18.7 Upon request by DTSC, GRANTEE shall provide DTSC, its contractors and consultants, with copies of photographs GRANTEE has in its possession of the Site(s) and activities at the Site(s), as well as copies of drawings GRANTEE has

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- in its possession in connection with the Proposed Reuse plans for the Site(s). GRANTEE grants DTSC the right to distribute, transmit, publish, or copy, in any medium, either in whole or in part, the photographs or drawings DTSC obtains pursuant to this AGREEMENT for any use, including, but not limited to, project documentation, public outreach, web and social media content, and marketing materials. This subsection does not apply to photos or drawings that contain confidential business information.
- 18.8 GRANTEE grants DTSC, its contractors and consultants, the right to distribute, transmit, publish, or copy, in any medium, either in whole or in part, narratives, descriptions, and any other information provided to DTSC by GRANTEE pursuant to or in connection with this AGREEMENT and/or ECRG Application for any use, including, but not limited to, public outreach, web and social media content, and marketing materials. This subsection does not apply to confidential business information.
- 18.9 To the extent GRANTEE submits information to DTSC, its contractors and consultants, under this AGREEMENT that it asserts is confidential business information, GRANTEE shall clearly mark the information and document as confidential business information.
- 18.10 GRANTEE agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes and other written or graphic work produced in the performance of this AGREEMENT and/or the ECRG Application shall be in the public domain to the extent to which release of such materials is required under the California Public Records Act (Government Code section 6250 et seq.), the Information Practices Act (Civil Code section 1798 et seq.), and Government Code sections 11015.5 and 11019.9.

19. NON-DISCRIMINATION

- 19.1 During the performance of ECRG, GRANTEE, its contractors, and subcontractors will comply with Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code § 11135-11139.5) prohibiting discrimination based on sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation.
- 19.2 In compliance with Government Code section 11135, and if GRANTEE is a public entity, in compliance with Government Code sections 7290 et seq.,

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GRANTEE agrees to make language assistance available free of charge to individuals with communication disabilities or limited proficiency in English, including interpreter services and written information in the prevalent languages in the community, in conducting public outreach and community engagement related to the ECRG Tasks.

19.3 GRANTEE shall comply with Title VI of the Civil Rights Act.

20. INDEMNIFICATION

20.1 GRANTEE agrees to protect, indemnify, defend and hold harmless, the State and DTSC, their officers, administrators, agents, contractors, consultants, and employees from, or against any and all claims, demands, suits, losses, damages, judgments, costs and expenses, whether direct, indirect or consequential and including, but not limited to, all fees, expenses and charges of attorneys and other professionals, court costs, and other fees and expenses, arising out of or in connection with the performance of any work or any GRANTEE responsibility or obligation as provided herein and caused in whole or in part by any act, error, omission, or negligence of GRANTEE or its agents, servants, contractors, employees, assigns, or the Site Owner(s).

21. ASSIGNMENT

21.1 GRANTEE shall not assign or attempt to assign directly nor indirectly, any of its rights under this AGREEMENT (including the ECRG funds) or under any instrument referred to herein without DTSC's prior written consent.

21.2 Prior written consent will not be granted except in extremely limited circumstances to protect public health and the environment, at DTSC's sole discretion.

22. NO THIRD PARTY RIGHTS

22.1 This AGREEMENT is not intended to create or vest any rights in any third party, nor to create any third-party beneficiaries.

23. NO ORAL MODIFICATION

23.1 The terms of this AGREEMENT may not be amended except in writing, signed by all the parties hereto.

24. NONCOMPLIANCE STATUS

24.1 Under the laws of the State of California, GRANTEE shall not be:

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- a. In violation of any order or resolution not subject to review promulgated by the California Air Resources Board or an air pollution control district;
- b. Subject to cease-and-desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
- c. Out of compliance with any applicable laws, ordinances, regulations, orders, and permits.

25. AFFIRMATION

- 25.1 The GRANTEE affirms that GRANTEE did not cause nor contribute to the release or threatened release of a hazardous substance at the Site(s) and GRANTEE has a CERCLA (42 U.S.C. Code section 9601 *et. seq.*) defense against liability for any previous contamination at the Site(s).

26. SEVERABILITY

- 26.1 If any provision of this AGREEMENT shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired by such holding.

27. SURVIVABILITY

- 27.1 The obligations of GRANTEE under Sections 3, 6.5, 7.5, 12, 18, and 20, shall survive the expiration or termination of this AGREEMENT for any reason.

28. COUNTERPARTS

- 28.1 This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute the same instrument.

Signatures on next page

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IN THE WITNESS WHEREOF, THE PARTIES HERETO EXECUTE THIS AGREEMENT ON THE DATE SET FORTH BELOW AND GRANTEE ACCEPTS THE AFOREMENTIONED TERMS AND CONDITIONS ELECTRONICALLY.

City of Fresno

A Public Entity

BY:  _____
4B59C02BA274430...

Georganne White, City Manager

Authorized Signatory

Date: 3/20/2024 _____

Department of Toxic Substances Control

Site Mitigation and Restoration Program

BY: _____

Diane Barclay, PG, CEG, CHG

Acting Deputy Director

Date: _____

References: All documents referred to in this AGREEMENT are located in Fluxx and Regulatory Oversight Agreements are located on GeoTracker or EnviroStor